

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

**Return Date: October 26, 2023**  
**Time: 10:00 a.m.**

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In re:

Chapter 13  
Case No.: 23-42705-206

RICHARD C. DWECK

Debtor(s)

**NOTICE OF MOTION**

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SIRS / MADAMS:

**PLEASE TAKE NOTICE**, that MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, will move before the Honorable Jil Mazer-Marino, United States Bankruptcy Judge, on the 26th day of OCTOBER, 2023 at 10:00AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East – Courtroom 3529, Brooklyn, New York 11201, for an Order pursuant to 11 U.S.C. §§521 & 1307(c), dismissing this case, by reason of the debtor(s)' failure to provide and/or file documents, and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE NOTICE**, that the hearing shall not be held in person but shall be held telephonically or by video. Those intending to appear at the hearing must register with eCourt Appearances no later than two (2) days prior to the hearing. The phone number or video link for the hearing will be emailed to those that register with eCourt Appearances in advance of the hearing. Instructions for registering with eCourt Appearances can be found at <https://www.nyeb.uscourts.gov/node/2126>. If you do not have internet access or are otherwise unable to register with eCourt Appearances, you may call or email Judge Mazer-Marino's courtroom deputy for instructions at (347)394-1844, [jmm\\_hearings@nyeb.uscourts.gov](mailto:jmm_hearings@nyeb.uscourts.gov).

**PLEASE TAKE NOTICE**, that the hearing on the Motion may be adjourned without notice other than announcement in open Court.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, shall be filed with the Court and served on the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Islandia, New York  
October 3, 2023

Yours, etc.

MICHAEL J. MACCO  
Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7908

To: *Office of the United States Trustee*  
*RICHARD C. DWECK, Debtor(s)*  
*WILLIAM WALDNER, ESQ., Attorney for Debtor(s)*  
*All Interested Parties and Creditors*

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

**tmm1634**

Chapter 13  
Case No.: 23-42705-206

RICHARD C. DWECK

Debtor(s)

**APPLICATION**

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TO THE HONORABLE JIL MAZER-MARINO, UNITED STATES BANKRUPTCY JUDGE:

MICHAEL J. MACCO, Chapter 13 Trustee of the above captioned estate, respectfully represents, as follows:

1. The debtor(s) filed a petition under the provisions of 11 U.S.C. Chapter 13 on July 28, 2023, and thereafter MICHAEL J. MACCO was duly appointed and has qualified as Trustee.

2. As of the date of this motion, the debtor(s) has failed to provide the Trustee with copies of last 60 days of paystubs both partnerships or remove deductions from schedules and list as self-employed setting aside money for taxes; personal state and federal tax returns for 2022; affidavit of contribution with proof of income for non-filing spouse and children; corporate state and federal tax returns for both business for 2022; list of business assets and fair market value including aging accounts receivable for both businesses; US Trustee approved operating reports with proof of tax deposits and bank statements attached; amended plan to pay claim#1 plus interest; loss mitigation payment should be \$6,935.27; turnover loss mitigation payment to trustee in section 2.1; remove section 3.1; amended schedules I/J to list student loan expense starting in October 2023 and all expenses including electricity and water; amended statement of financial affairs to answer all questions completely and accurately; amended schedules to list second (2) mortgage creditor; proof post-petition student loans payments and second (2) mortgage are being paid; debtors email address; copy of loss mitigation packet submitted to bank; and attorney fee claim.

3. This is a material default and is prejudicial to the rights of the creditors of the debtor.

**WHEREFORE**, the Trustee requests an Order pursuant to the provisions of 11 U.S.C. §§521 & 1307(c), dismissing this case, and for such other and further relief as this Court deems just and proper.

Dated: Islandia, New York  
October 3, 2023

/s/ Michael J. Macco

Michael J. Macco, Chapter 13 Trustee  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
(631) 549-7908

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

Case No: 23-42705-206

IN RE:

RICHARD C. DWECK

**CERTIFICATE OF SERVICE  
BY MAIL AND ELECTRONIC  
SERVICE**

Debtor.

This is to certify that I, Alexandria Jumara, have this day served a true, accurate and correct copy of the within ***Notice of Motion and Application***, by depositing a true copy of same, enclosed in a post-paid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York:

*Richard C Dweck  
1567 East 5th Street  
Brooklyn, NY 11230  
Debtor(s)*

and upon the following parties, by the e-mail address designated by said parties for that purpose;

*Office of the United States Trustee  
U.S. Federal Office Building  
[USTP.Region02.BR.TFRTDR@usdoj.gov](mailto:USTP.Region02.BR.TFRTDR@usdoj.gov)*

*William Waldner, Esq.  
Law Office of William Waldner  
[willwaldner@gmail.com](mailto:willwaldner@gmail.com)  
Attorney for Debtor(s)*

*Planet Home Lending, LLC  
FRIEDMAN VARTOLO LLP  
[Bankruptcy@FriedmanVartolo.com](mailto:Bankruptcy@FriedmanVartolo.com)*

This October 3, 2023

**/s/ Alexandria Jumara**  
Alexandria Jumara, Paralegal  
Office of the Standing Chapter 13 Trustee  
Michael J. Macco, Esq.  
2950 Express Drive South, Suite 109  
Islandia, NY 11749  
631-549-7908